

KANSAS INSURANCE DEPARTMENT
Notice of Hearing on Proposed
Administrative Regulation

A public hearing will be conducted on December 23, 2013 at 1:30 p.m., in the third floor conference room, Kansas Insurance Department, 420 S.W. 9th, Topeka, Kansas, to consider the adoption of proposed rules and regulations.

The 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rule and regulation. All interested parties may submit written comments prior to the hearing to Kris Kellim, Kansas Insurance Department, 420 S.W. 9th, Topeka, Kansas, 66612-1678, via facsimile at 785-291-3190, or via email at kkellim@ksinsurance.org. All interested parties will be given a reasonable opportunity to present their views orally on the adoption of the proposed regulations during the hearing.

A summary of the proposed regulations and their economic impact follows.

K.A.R. 40-1-28. Insurance holding companies; reporting forms and instructions. The amendment to this regulation is being proposed to amend the current regulation relating to reporting forms and instructions for insurance holding company systems filed by insurance companies. This proposed amendment to K.A.R. 40-1-28 adopts by reference the October 15, 2013 "Policy and Procedure Providing Insurance Holding Company System Forms and Instructions," which is the current National Association of Insurance Commissioners (NAIC) model regulation with Kansas-specific revisions.

The proposed amended regulation is not mandated by federal law.

-There would be minimal impact on companies required to update their procedures, although these updates would be required by other states as well. The proposed amended regulation will not have any economic impact on other insurance companies, government agencies, regulated entities, large or small businesses, the general public, or consumers.

K.A.R. 40-1-37. Audited financial reports; filing requirements. The amendment to this regulation is being proposed to amend the current regulation relating to annual audited financial reports filed by insurance companies. K.S.A. 40-225 directs the commissioner to make amendments or additions to the reporting requirements prescribed by the National Association of Insurance Commissioners (NAIC). This proposed amendment to K.A.R. 40-1-37 adopts by reference the July 19, 2013 "Policy and Procedure Requiring Annual Audited Financial Reports," which is the current NAIC model regulation with Kansas-specific revisions. Companies currently voluntarily comply with the NAIC model regulation.

The proposed amended regulation is not mandated by federal law.

Because these national standards already exist, most companies will not change current practice or experience any fiscal impact. There would be minimal impact on companies required to update their procedures, although these updates would be required by other states as well. The proposed amended regulation will not have any economic impact on other insurance companies, government agencies, regulated entities, large or small businesses or the general public.

K.A.R. 40-1-48. Risk-based capital instructions for health organizations.

This regulation adopts by reference the most recent version of the National Association of Insurance Commissioners ("NAIC") health risk-based capital reports, including overview and instructions, for companies. Risk based capital is a method of measuring the minimum amount of capital appropriate for an insurance entity to support its overall business operation in consideration of its size and risk profile. Risk based capital standards for health organizations were enacted in Kansas in the year 2000 and have been amended. This regulation sets out the requirements and format of the risk-based capital report that all domestic health organizations are required to file each year.

The economic impact on companies, if any, is positive because the reports that are required to be filed in Kansas are uniform formats as established by the NAIC. NAIC rules, regulations, and instructions are promulgated after input from the insurance industry and regulators nationwide. Companies will generally be familiar with the format and requirements of these reports.

The economic impact will be positive, if any, because the reports that are required to be filed in Kansas are uniform formats as established by the NAIC. There will be little or no economic impact on the Kansas Insurance Department, consumers, small businesses, or other governmental agencies..

K.A.R. 40-3-59. Workers compensation policies. This regulation is being proposed to provide definitions that are consistent with related terms defined under L. 2012, ch. 142, sec. 2 and to provide standards for insurance companies who elect to issue workers compensation insurance coverage on a master policy basis, which is otherwise prohibited under K.S.A. 40-955.

The proposed regulation is not mandated by federal law.

The proposed regulation would have minimal impact on companies who elect to issue workers compensation insurance coverage on a master policy basis. The proposed regulation would not have any economic impact on other insurance companies, government agencies, regulated entities, large or small businesses, the general public, or consumers.

K.A.R. 40-16-1. Professional employer organizations; definitions.

K.A.R. 40-16-2. Professional employer organizations; fees.

The Professional Employer Organization Registration Act, L. 2012, ch. 142, sec. 10, authorizes the Commissioner to adopt necessary rules and regulations. K.A.R. 40-16-1 is being proposed to provide a definition for the term, "act." K.A.R. 40-16-2 is being proposed to set forth application fees as required under L. 2012, ch. 142, sec. 5.

The proposed new regulations are not mandated by federal law.

K.A.R. 40-16-1 would have no economic impact. There would be minimal economic impact on professional employer organizations and groups required to pay application fees pursuant to K.A.R. 40-16-2. The proposed new regulations would not have any economic impact on other insurance companies, government agencies, regulated entities, large or small businesses or the general public.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulation and the economic impact statement in an accessible format. Requests for accommodation to participate in the hearing should be made at least 5 working days in advance by contacting Kris Kellim at (785) 296-2188 or via email at kkellim@ksinsurance.org. Any individual desiring a copy of this regulation and/or the policy and procedure that is being adopted by reference, if applicable, may obtain a copy from our website, www.ksinsurance.org, under the Legal Issues link or by contacting Kris Kellim by phone at (785)296-2188 or via email at kkellim@ksinsurance.org. The charge for copies is fifty cents per page.

ECONOMIC IMPACT STATEMENT
Proposed Kansas Administrative Regulation 40-1-28

Pursuant to K.S.A. 77-416(b) the Kansas Insurance Department submits the following statement of the economic impact of proposed amended regulation K.A.R. 40-1-28:

(1) K.A.R. 40-1-28 is being proposed to amend the current regulation relating to reporting forms and instructions for insurance holding company systems filed by insurance companies. This proposed amendment to K.A.R. 40-1-28 adopts by reference the October 15, 2013 "Policy and Procedure Providing Insurance Holding Company System Forms and Instructions," which is the current National Association of Insurance Commissioners (NAIC) model regulation with Kansas-specific revisions.

(2) The proposed amended regulation is not mandated by federal law.

(3) There would be minimal impact on companies required to update their procedures, although these updates would be required by other states as well. The proposed amended regulation will not have any economic impact on other insurance companies, government agencies, regulated entities, large or small businesses, the general public, or consumers.

ECONOMIC IMPACT STATEMENT
Proposed Kansas Administrative Regulation 40-1-37

Pursuant to K.S.A. 77-416(b) the Kansas Insurance Department submits the following statement of the economic impact of proposed amended regulation K.A.R. 40-1-37:

(1) K.A.R. 40-1-37 is being proposed to amend the current regulation relating to annual audited financial reports filed by insurance companies. K.S.A. 40-225 directs the commissioner to make amendments or additions to the reporting requirements prescribed by the National Association of Insurance Commissioners (NAIC). This proposed amendment to K.A.R. 40-1-37 adopts by reference the July 19, 2013 "Policy and Procedure Requiring Annual Audited Financial Reports," which is the current NAIC model regulation with Kansas-specific revisions. Companies currently voluntarily comply with the NAIC model regulation.

(2) The proposed amended regulation is not mandated by federal law.

(3) Because these national standards already exist, most companies will not change current practice or experience any fiscal impact. There would be minimal impact on companies required to update their procedures, although these updates would be required by other states as well. The proposed amended regulation will not have any economic impact on other insurance companies, government agencies, regulated entities, large or small businesses or the general public.

ECONOMIC IMPACT STATEMENT

Proposed Kansas Administrative Regulation 40-1-48

Pursuant to the requirement of K.S.A. 77-416(b) the Kansas Insurance Department submits the following description of the economic impact of the above referenced proposed amended regulation K.A.R. 40-1-48:

1. This regulation adopts by reference the most recent version of the National Association of Insurance Commissioners ("NAIC") health risk-based capital reports, including overview and instructions, for companies. Risk based capital is a method of measuring the minimum amount of capital appropriate for an insurance entity to support its overall business operation in consideration of its size and risk profile. Risk based capital standards for health organizations were enacted in Kansas in the year 2000 and have been amended. This regulation sets out the requirements and format of the risk-based capital report that all domestic health organizations are required to file each year.

2. The economic impact on companies, if any, is positive because the reports that are required to be filed in Kansas are uniform formats as established by the NAIC. NAIC rules, regulations, and instructions are promulgated after input from the insurance industry and regulators nationwide. Companies will generally be familiar with the format and requirements of these reports.

3. The economic impact will be positive, if any, because the reports that are required to be filed in Kansas are uniform formats as established by the NAIC. There will be little or no economic impact on the Kansas Insurance Department, consumers, small businesses, or other governmental agencies.

ECONOMIC IMPACT STATEMENT
Proposed Kansas Administrative Regulation 40-3-59

Pursuant to K.S.A. 77-416(b) the Kansas Insurance Department submits the following statement of the economic impact of proposed regulation K.A.R. 40-3-59:

(1) K.A.R. 40-3-59 is being proposed to provide definitions that are consistent with related terms defined under L. 2012, ch. 142, sec. 2 and to provide standards for insurance companies who elect to issue workers compensation insurance coverage on a master policy basis, which is otherwise prohibited under K.S.A. 40-955.

(2) The proposed regulation is not mandated by federal law.

(3) The proposed regulation would have minimal impact on companies who elect to issue workers compensation insurance coverage on a master policy basis. The proposed regulation would not have any economic impact on other insurance companies, government agencies, regulated entities, large or small businesses, the general public, or consumers.

ECONOMIC IMPACT STATEMENT
Proposed Kansas Administrative Regulation 40-16-1 and 40-16-2

Pursuant to K.S.A. 77-416(b) the Kansas Insurance Department submits the following statement of the economic impact of proposed regulations K.A.R. 40-16-1 and 40-16-2:

(1) The Professional Employer Organization Registration Act, L. 2012, ch. 142, sec. 10, authorizes the Commissioner to adopt necessary rules and regulations. K.A.R. 40-16-1 is being proposed to provide a definition for the term, "act." K.A.R. 40-16-2 is being proposed to set forth application fees as required under L. 2012, ch. 142, sec. 5.

(2) The proposed new regulations are not mandated by federal law.


(3) K.A.R. 40-16-1 would have no economic impact. There would be minimal economic impact on professional employer organizations and groups required to pay application fees pursuant to K.A.R. 40-16-2. The proposed new regulations would not have any economic impact on other insurance companies, government agencies, regulated entities, large or small businesses or the general public.

~~K.A.R. 40-1-28. Insurance holding companies; information required; disclaimer of affiliation; termination of registration; acquisition of control reporting forms and instructions.~~ National association of insurance commissioners insurance holding company system model regulation with reporting forms and instructions, June 1986 edition, is hereby adopted by reference, subject to the following exceptions:

- (a) Sections 1, 2 and 3 are not adopted;
- (b) ~~section 4(b) is completed by inserting "Two"; "Kansas, 420 S.W. 9th Street, Topeka, Kansas"; "Chief Examiner"; and, "30" respectively in the spaces provided;~~
- (c) ~~section 4(a) is amended by substituting "K.S.A. 40-3304 and 40-3305" for "Sections 3, 4 and 5 of this Act" appearing in the first sentence;~~
- (d) ~~section 6(b)(3) is completed by inserting "30" in the space provided;~~
- (e) ~~section 8 is hereby amended by the addition of the following: "The Act means the statutes relating to insurance holding companies contained in Article 33, Chapter 40 Kansas Statutes Annotated";~~
- (f) ~~section 9 is not adopted;~~
- (g) ~~section 10 is amended by substituting "K.S.A. 40-3304" for "Section 3 of the Act";~~
- (h) ~~section 12(a) is amended by substituting "K.S.A. 40-3304(a)" for "Section 3(a)(1) of the Act";~~
- (i) ~~section 12(b) is amended by substituting "K.S.A. 40-3304(a)" for "Section 3(a)(1)";~~

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~~(j) section 13 is amended by substituting "K.S.A. 40-3305" for "Section 4 of the Act";~~

~~(k) section 14 is amended by substituting "K.S.A. 40-3305" for "Section 4 of the Act";~~

~~(l) section 15 is not adopted;~~

~~(m) section 16(a) is amended by substituting "K.S.A. 40-3305" for "Section 4 of the Act" appearing in the first sentence;~~

~~(n) section 16(d) is amended by substituting "K.S.A. 40-3305(f) or K.S.A. 40-3305(g)" for "Section 4(h) or 4(i) of the Act";~~

~~(o) section 19(b) is not adopted;~~

~~(p) section 20 is amended by substituting "K.S.A. 40-3305(b)" for "Section 5(d) of the Act";~~

~~(q) section 21 is added as follows: "Section 21. Acquisition of control—statement filing.~~

~~(1) A person required to file a statement pursuant to K.S.A. 40-3304 shall, prior to committing any act towards the acquisition of control of a domestic insurer, file a letter with the commissioner of insurance indicating:~~

~~(A) the person's interest in the possible acquisition of control;~~

~~(B) the name of the domestic insurer to be acquired;~~

~~(C) that the person is aware of and will comply with the applicable provisions of the Kansas insurance holding companies act; and~~

~~(D) that all negotiations or agreements to acquire control of the domestic insurer will be conditioned upon the approval of the commissioner of insurance.~~

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~~(2) A person required to file a statement pursuant to K.S.A. 40-3304 shall furnish the required information on form A, hereby made a part of this regulation."~~

~~(r) Item 12(b) and (c) of form A is amended to read as follows: "(b) The financial statements shall include the annual financial statements of the persons identified in item 2(c) for the preceding five fiscal years or for such lesser period as such applicant and its affiliates and any predecessors thereof shall have been in existence, and similar information covering the period from the end of such person's last fiscal year, to a date not earlier than 90 days prior to the filing of the Form A. Such statements may be prepared on either an individual basis, or on a consolidated basis if such consolidated statements are prepared in the usual course of business.~~

~~Unless otherwise permitted by the commissioner, the annual financial statements of the applicant shall be accompanied by the certificate of an independent public accountant to the effect that such statements present fairly the financial position of the applicant and the results of its operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If the applicant is an insurer which is actively engaged in the business of insurance, the financial statements need not be certified, if they are based on the annual statement of such person filed with the insurance department of the person's domiciliary state and are in accordance with the requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of such state.~~

~~(c) File as exhibits copies of all tender offers for, requests or invitations for, tenders of, exchange offers for, and agreements to acquire or exchange any voting~~

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~~securities of the insurer, and if distributed, of additional soliciting material relating thereto, any proposed employment, consultation, advisory or management contracts concerning the insurer, annual reports to the stockholders of the insurer and the applicant for the last two fiscal years, and any additional documents or papers required by form A or K.S.A. 40-3304."~~

~~(s) item 13 is amended by substituting "K.S.A. 40-3304" for "Section 3 of the Act";~~

~~(t) the second sentence of item 2(c) of form A is not adopted;~~

~~(u) the second sentence of item 2 of form B is not adopted;~~

~~(v) item 5 of form B is amended by substituting "K.S.A. 40-3305" for "Section 4 of the Act";~~

~~(w) item 10 of form B is amended by substituting "K.S.A. 40-3305" for "Section 4 of the Act"; and~~

~~(x) the signature section of form C is amended by substituting "K.S.A. 40-3305" for "Section 4 of the Act."~~ The Kansas insurance department's "policy and procedure providing insurance holding company reporting forms and instructions," dated October 15, 2013, is hereby adopted by reference. (Authorized by K.S.A. 40-103, K.S.A. 2013 Supp. 40-3309; implementing K.S.A. 2013 Supp. 40-3304(a) and (b), 40-3305, and 40-3306 as amended by 1991 SB 67, Secs. 4 & 5; effective May 1, 1976; amended May 1, 1979; amended May 1, 1986; amended May 1, 1988; amended May 15, 1989; amended, T-40-9-26-91, Sept. 26, 1991; amended Dec. 16, 1991; amended P-

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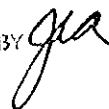
K.A.R. 40-1-37. Audited financial reports; filing requirements. The Kansas insurance department's "policy and procedure requiring annual audited financial reports," dated ~~March 6, 2012~~ July 19, 2013, is hereby adopted by reference.

(Authorized by K.S.A. 40-103 and K.S.A. 40-225; implementing K.S.A. 40-222b, K.S.A. ~~2011~~ 2012 Supp. 40-222, and K.S.A. 40-225; effective July 10, 1989; amended Jan. 4, 1993; amended Sept. 14, 2001; amended Sept. 21, 2007; amended July 6, 2009; amended March 18, 2011; amended June 29, 2012; amended P-_____.)

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K.A.R. 40-1-48. Risk-based capital instructions for health organizations. The following document prepared by the national association of insurance commissioners and dated ~~November 15, 2011~~ is hereby adopted by reference:

"~~2011~~ 2012 NAIC health risk-based capital report including overview and instructions for companies as of December 31, ~~2011~~ 2012," including the appendices and excluding the unnumbered page titled "companion products" and the preceding unnumbered page; the letter dated ~~November 15, 2011~~ August 29, 2012 to health risk-based capital ~~subscribers~~ vendors from Eva Yeung; the health risk-based capital newsletter, volume ~~43.1~~ 14.1, dated ~~July 2011~~ August 2012; pages i and ii; the paragraph titled "trend test" on page 29; the health risk-based capital forecasting spreadsheet instructions; and the "health forecasting" CD-ROM attached to the inside back cover. (Authorized by K.S.A. 40-2d29; implementing K.S.A. 40-2d02(a) and 40-2d03(a); effective Dec. 28, 2001; amended July 5, 2002; amended Oct. 17, 2003; amended April 23, 2004; amended March 17, 2006; amended Dec. 1, 2008; amended Jan. 3, 2011; amended June 29, 2012; amended P-_____.)

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K.A.R. 40-3-59. Workers compensation policies. (a) For the purpose of this regulation and K.S.A. 40-955 and amendments thereto, each of the following terms shall have the meaning specified in this subsection:

(1) "Advisory organization" means an entity licensed by the commissioner for the reporting of claims and experience data for the administration of the workers compensation experience rating system.

(2) "Client" has the meaning specified in L. 2012, ch. 142, § 2, and amendments thereto.

(3) "Covered employee" has the meaning specified in L. 2012, ch. 142, § 2, and amendments thereto.

(4) "Master policy" means a single policy issued to a professional employer organization or professional employer group for the covered employees and any direct-hire employees of the professional employer organization or the professional employer group.


(5) "Multiple coordinate policy" means an agreement under which a separate policy is issued to or on behalf of each client or group of affiliated clients of a professional employer organization or a professional employer group, but payment of obligations and certain policy communications are coordinated through the professional employer organization or the professional employer group. This term is also known as a "multiple coordinated policy."

(6) "Professional employer group" has the meaning specified in L. 2012, ch. 142, § 2, and amendments thereto.

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(7) "Professional employer organization" has the meaning specified in L. 2012, ch. 142, § 2, and amendments thereto.

(8) "Shared employment relationship" means "co-employment relationship" as defined in L. 2012, ch. 142, § 2, and amendments thereto.

(b) When submitting a master policy to the commissioner for examination, the insurer's filing shall include a detailed rule stating the manner in which the insurer will track and report payroll and claims data for each client to the advisory organization in a manner that identifies both the client and the professional employer organization and that is acceptable to the advisory organization. The adjustment of annual premiums based on previous loss experience, which is also known as experience rating modification, shall be calculated for each client as if the client were the sole employer of the client's covered employees. Failure of the insurer to provide this detailed rule with the insurer's filing to the commissioner shall result in the disapproval of the master policy.


(c) Each master policy shall cover only one professional employer organization or professional employer group.

(d) Each master policy shall be issued in the name of the professional employer organization or professional employer group and shall require that each covered client hold a certificate of coverage identifying that client as an alternate employer.

(e) Each insurer or its authorized representative shall issue a certificate of coverage to each client covered under a master policy. Each certificate of coverage shall meet the following requirements:

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(1) The certificate of coverage shall specify the effective date of the client's coverage and the expiration date of the underlying master policy. A renewal certificate of coverage shall be issued to each client each time the master policy is renewed. If the insurer cancels the master policy for nonpayment of premium, the insurer shall give the professional employer organization or professional employer group and each client at least 10 days' written notice before the effective date of cancellation.

(2) The certificate of coverage shall provide that the client is entitled to 30 days' notice before coverage can be cancelled or nonrenewed with the client's consent, unless either of the following conditions is met:

(A) Replacement coverage is provided by the professional employer organization or professional employer group with no break in coverage.

(B) The insurer has notified the client when the certificate of coverage is first issued that the master policy will be cancelled or nonrenewed in less than 30 days.

(f) Cancellation or nonrenewal of a client's coverage at the initiative of the professional employer organization or professional employer group without the written consent of the client shall not be effective, unless at least one of the following conditions is met:

(1) The insurer has given at least 30 days' advance notice to the client.

(2) The professional employer organization or professional employer group has given at least 30 days' advance notice to the insurer and the client.


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(3) Coverage for all covered clients has been replaced with no break in coverage, and the professional employer organization has given advance notice to the insurer and the clients.

(g) Each professional employer organization or professional employer group shall be responsible for payment to the insurer of any premiums, policyholder assessments, and deductible reimbursement charges under a master policy or a multiple coordinated policy, whether or not the professional employer organization or professional employer group has received timely payment from the client. A client's failure to pay any fees to the professional employer organization or professional employer group when the fees are due shall not constitute nonpayment of premium pursuant to K.S.A. 40-2,120, and amendments thereto, or K.A.R. 40-3-15. (Authorized by K.S.A. 40-103 and K.S.A. 2012 Supp. 40-955; implementing K.S.A. 2012 Supp. 40-955; effective P-_____.)

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Article 16. Professional Employer Organizations

K.A.R. 40-16-1. Professional employer organizations; definition. For the purpose of this article, "act" shall mean professional employer organization registration act. (Authorized by K.S.A. 40-103 and L. 2012, ch. 142, sec. 10; implementing L. 2012, ch. 142, sec. 1; effective P-_____.)

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K.A.R. 40-16-2. Professional employer organizations; fees. The following fees shall be paid to the department:

(a) For each professional employer organization, the following fees:

(1) For an initial application for registration, \$1,000;

(2) for a renewal application for registration, \$500; and

(3) for an initial or a renewal application for limited registration, \$500; and

(b) for each professional employer group, the following fees:

(1) For an initial application for registration, \$1,000 for each professional employer organization within the professional employer group that would otherwise be required to individually register under the act;

(2) for a renewal application for registration, \$500 for each professional employer organization within the professional employer group that would otherwise be required to individually register under the act; and

(3) for an initial or a renewal application for limited registration, \$500 for each professional employer organization within the professional employer group that would otherwise be required to individually register under the act. (Authorized by K.S.A. 40-103 and L. 2012, ch. 142, sec. 10; implementing L. 2012, ch. 142, sec. 5; effective P-_____.)

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